

Senate File 484 - Introduced

SENATE FILE 484
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1065)

A BILL FOR

1 An Act relating to midwife licensure and providing for a fee
2 and a penalty, and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 147.1, subsections 3 and 6, Code 2011,
2 are amended to read as follows:

3 3. "*Licensed*" or "*certified*", when applied to a physician
4 and surgeon, podiatric physician, osteopathic physician and
5 surgeon, physician assistant, psychologist, chiropractor,
6 nurse, dentist, dental hygienist, dental assistant,
7 optometrist, speech pathologist, audiologist, pharmacist,
8 physical therapist, physical therapist assistant, occupational
9 therapist, occupational therapy assistant, respiratory care
10 practitioner, practitioner of cosmetology arts and sciences,
11 practitioner of barbering, funeral director, dietitian, marital
12 and family therapist, mental health counselor, social worker,
13 massage therapist, midwife, athletic trainer, acupuncturist,
14 nursing home administrator, hearing aid dispenser, or sign
15 language interpreter or transliterator means a person licensed
16 under this subtitle.

17 6. "*Profession*" means medicine and surgery, podiatry,
18 osteopathic medicine and surgery, practice as a physician
19 assistant, psychology, chiropractic, nursing, dentistry,
20 dental hygiene, dental assisting, optometry, speech pathology,
21 audiology, pharmacy, physical therapy, physical therapist
22 assisting, occupational therapy, occupational therapy
23 assisting, respiratory care, cosmetology arts and sciences,
24 barbering, mortuary science, marital and family therapy,
25 mental health counseling, social work, dietetics, massage
26 therapy, midwifery, athletic training, acupuncture, nursing
27 home administration, hearing aid dispensing, or sign language
28 interpreting or transliterating.

29 Sec. 2. Section 147.2, subsection 1, Code 2011, is amended
30 to read as follows:

31 1. A person shall not engage in the practice of medicine
32 and surgery, podiatry, osteopathic medicine and surgery,
33 psychology, chiropractic, physical therapy, physical therapist
34 assisting, nursing, dentistry, dental hygiene, dental
35 assisting, optometry, speech pathology, audiology, occupational

1 therapy, occupational therapy assisting, respiratory care,
2 pharmacy, cosmetology arts and sciences, barbering, social
3 work, dietetics, marital and family therapy or mental health
4 counseling, massage therapy, midwifery, mortuary science,
5 athletic training, acupuncture, nursing home administration,
6 hearing aid dispensing, or sign language interpreting
7 or transliterating, or shall not practice as a physician
8 assistant, unless the person has obtained a license for that
9 purpose from the board for the profession.

10 Sec. 3. Section 147.13, Code 2011, is amended by adding the
11 following new subsection:

12 NEW SUBSECTION. 24. For midwifery, the board of midwifery.

13 Sec. 4. Section 147.14, subsection 1, Code 2011, is amended
14 by adding the following new paragraph:

15 NEW PARAGRAPH. x. For midwifery, a total of seven members,
16 three members who are licensed midwives under chapter 148F;
17 one member who is licensed under chapter 148, is a practicing
18 family physician, and has professional experience consulting
19 for and collaborating with direct-entry midwives; one member
20 who is an advanced registered nurse practitioner licensed under
21 chapter 152, is a certified nurse midwife, and has professional
22 experience consulting for and collaborating with direct-entry
23 midwives; and two members who are not licensed midwives or
24 licensed health care providers who have received direct-entry
25 midwifery services and who shall represent the general public.

26 Sec. 5. Section 147.74, Code 2011, is amended by adding the
27 following new subsection:

28 NEW SUBSECTION. 5A. A midwife licensed under chapter 148F
29 may use the words "licensed midwife" or the initials "L.M."
30 after the person's name.

31 Sec. 6. NEW SECTION. 148F.1 **Definitions.**

32 As used in this chapter, unless the context otherwise
33 requires:

34 1. "Board" means the board of midwifery.

35 2. "Licensed midwife" means a person who is licensed to

1 practice midwifery as provided in this chapter.

2 3. "*Out-of-hospital*" means any facility, institution, or
3 place which is not an ambulatory surgical center or a hospital,
4 such as a birth center as defined in section 135.61 or a
5 private home.

6 4. "*Practice of midwifery*" means the provision of primary
7 maternity care during the antepartum, intrapartum, and
8 postpartum periods by a person who is neither licensed to
9 practice under chapter 148 or 148C, nor a nurse recognized
10 by the Iowa board of nursing as an advanced registered nurse
11 practitioner who is a certified nurse midwife, and who is not
12 rendering emergency services without compensation. "*Practice*
13 *of midwifery*" may also include the carrying and administration
14 of certain medications during the practice of midwifery,
15 including oxytocin, as a postpartum antihemorrhagic agent,
16 oxygen, intravenous fluids for stabilization, vitamin K, eye
17 prophylactics, and other drugs or procedures as appropriate for
18 the scope of practice for licensed midwives as determined by
19 the board.

20 Sec. 7. NEW SECTION. 148F.2 Licensure — licensed
21 midwifery.

22 1. Beginning July 1, 2013, every person practicing
23 midwifery in this state shall be licensed pursuant to this
24 chapter. The board shall adopt rules pursuant to chapters 17A,
25 147, and 272C establishing procedures for the licensing of new
26 and practicing midwives.

27 2. Prior to obtaining licensure, an applicant shall
28 successfully pass an examination prescribed and approved by
29 the board as determined in rule demonstrating competencies
30 in at least all of the following areas: risk assessment
31 and management; prenatal care; management of normal labor,
32 birth, and postpartum; newborn care up to six weeks; and adult
33 cardiopulmonary resuscitation and newborn resuscitation.

34 3. The applicant shall provide documentation, satisfactory
35 to the board, of all of the following:

1 *a.* Knowledge and proficiency of all didactic components
2 of midwifery, including definitions, signs and symptoms,
3 differential diagnosis for risk assessment, stabilization and
4 treatment, follow-up, referral, and transport.

5 *b.* Complete and thorough preparation as an assistant
6 midwife prior to assuming responsibility as a primary midwife.
7 Clinical care performed under supervision during training
8 including, at a minimum:

9 (1) Seventy-five prenatal exams.

10 (2) Twenty births as an assistant midwife.

11 (3) Twenty births as primary midwife from the onset of labor
12 to the delivery of the placenta and the stabilization of mother
13 and newborn.

14 (4) Twenty newborn exams.

15 (5) Forty postpartum exams.

16 *c.* Assessment and verification of performance of skills
17 during an intensive, hands-on skills assessment, performed for
18 and scored by an evaluator approved by the board.

19 *d.* Passage of a three-hundred-fifty-item national board
20 examination that covers all aspects of midwifery care as
21 identified by job analysis.

22 *e.* Evidence that the applicant has provided prenatal,
23 intrapartal, and postpartal care as well as a newborn
24 assessment, equivalent to a minimum of one thousand three
25 hundred fifty clinical contact hours under the direct
26 supervision of one or more instructors approved by the North
27 American registry of midwives.

28 4. The applicant shall hold a certified professional
29 midwife credential issued by the North American registry of
30 midwives or any other nationally accredited credential as
31 specified by the board. If an applicant has been subject to
32 prior revocation of a license to practice medicine or nursing,
33 the applicant shall not be eligible for licensure under this
34 chapter, except as determined by the board.

35 5. The board may request, at the applicant's expense, that

1 the department of public safety perform a criminal history
2 check and the department of human services perform child
3 and dependent abuse record checks of the applicant. If an
4 applicant has a criminal record or a record of founded child or
5 dependent adult abuse, the board shall perform an evaluation to
6 determine whether the record warrants denial of licensure.

7 **Sec. 8. NEW SECTION. 148F.3 Use of title — penalty.**

8 A person shall not use the title licensed midwife, describe
9 or imply that the person is a licensed midwife, or represent
10 the person as a licensed midwife unless the person is granted a
11 license under this chapter or is licensed as a nurse-midwife
12 under chapter 152.

13 **Sec. 9. NEW SECTION. 148F.4 Rules.**

14 1. The board shall:

15 *a.* Adopt rules relating to standards for professional
16 conduct of persons licensed under this chapter.

17 *b.* Adopt rules consistent with this chapter and with
18 chapters 147 and 272C which are necessary for the performance
19 of its duties.

20 *c.* Act on matters concerning licensure and the processes
21 of applying for, granting, suspending, imposing supervisory
22 or probationary conditions upon, reinstating, and revoking a
23 license.

24 *d.* Administer the provisions of this chapter requiring
25 documentation required to demonstrate competence as a midwife,
26 and the processing of applications for licenses and license
27 renewal.

28 *e.* Develop continuing education requirements as a condition
29 of license renewal.

30 *f.* Evaluate requirements for licensure in other states to
31 determine if reciprocity may be granted.

32 *g.* Establish and collect licensure fees as provided in
33 section 147.80 and retain fees as provided in section 147.82.

34 *h.* Establish procedures for the issuance, renewal, and
35 revocation or suspension of a license under this chapter.

1 *i.* Maintain a registry of licensed midwives and statistics
2 on the practice of midwifery utilizing vital statistics data.

3 2. In establishing rules, the board may consult with
4 persons knowledgeable regarding the prenatal and postpartum
5 birth process, particularly those possessing experience with
6 out-of-hospital births, including but not limited to persons
7 licensed under chapter 148, certified professional midwives,
8 advanced registered nurse practitioners who are certified nurse
9 midwives, and women who have given birth in an out-of-hospital
10 setting. In establishing rules, the board shall reflect the
11 knowledge and skills identified by the North American registry
12 of midwives' current job description for the profession and the
13 standards of practice of midwifery established by the national
14 association of certified professional midwives or a successor
15 organization.

16 3. Rules relating to the practice of midwifery shall
17 not be inconsistent with the North American registry of
18 midwives' current job description for the profession and the
19 standards of practice of midwifery established by the national
20 association of certified professional midwives or a successor
21 organization, and shall not expand the scope of practice of
22 midwifery established by the national association of certified
23 professional midwives or a successor organization.

24 4. At such time as the board determines that liability
25 insurance is available at an affordable price to certified
26 professional midwives, the board may mandate such coverage.
27 Until that time, each midwife shall comply with the disclosure
28 requirements of this chapter.

29 Sec. 10. NEW SECTION. 148F.5 Client disclosure.

30 Prior to accepting a patient for midwifery care, a licensed
31 midwife shall provide information indicating all of the
32 following:

33 1. Evidence that the care provider is a licensed midwife
34 meeting the requirements of this chapter.

35 2. Whether the licensed midwife has malpractice liability

1 insurance coverage and the policy limits of such coverage.

2 3. The midwife's educational background and relevant
3 experience, including experience in various birth settings.

4 4. The nature, scope, and location of the care to be
5 given, including the possibility of and the guidelines for
6 consultation, referral, or transfer of the patient to a
7 hospital from an out-of-hospital setting.

8 Sec. 11. NEW SECTION. 148F.6 **Exceptions.**

9 1. This chapter does not prevent qualified members of other
10 professions including but not limited to individuals licensed
11 under chapter 148 or 152 from providing services consistent
12 with the nature of the practice of midwifery.

13 2. This chapter does not prevent or prohibit a student
14 midwife from performing tasks related to the practice of
15 midwifery under the supervision of a licensed midwife, a
16 certified nurse midwife, or a licensed physician during
17 completion of the licensure process.

18 3. The practice of midwifery in this state prior to July
19 1, 2013, shall not constitute grounds for disciplinary action
20 by the board. The board may issue a license to a person who
21 has practiced midwifery in this state upon application and
22 compliance with the provisions of this chapter and the rules
23 adopted pursuant to this chapter.

24 Sec. 12. NEW SECTION. 148F.7 **Prohibited practice.**

25 A person shall not practice midwifery, or represent that the
26 person is a midwife, unless the person is licensed as provided
27 in this chapter.

28 Sec. 13. NEW SECTION. 148F.8 **Requirements for licensure —**
29 **temporary license.**

30 Beginning July 1, 2013, an individual who does not meet the
31 requirements for licensure by examination pursuant to section
32 148F.2 may apply for a one-year temporary license as determined
33 by the board in rules. Renewal of the temporary license shall
34 be determined by the board. The board may revoke a temporary
35 license if it determines that the temporary licensee has

1 violated standards established by rule.

2 Sec. 14. NEW SECTION. **148F.9 Limits on liability.**

3 If the midwife does not have malpractice liability
4 insurance, a health care provider caring for a patient that has
5 been transferred to the provider's care from an out-of-hospital
6 setting shall be immune from liability for treatment of the
7 patient and her child. Such immunity shall not apply to acts
8 or omissions constituting gross negligence, recklessness,
9 or intentional misconduct. For purposes of this section,
10 "*health care provider*" means a physician or surgeon, osteopath,
11 osteopathic physician or surgeon, physician assistant, or nurse
12 licensed in this state, or a hospital licensed pursuant to
13 chapter 135B.

14 Sec. 15. Section 272C.1, subsection 6, Code 2011, is amended
15 by adding the following new paragraph:

16 NEW PARAGRAPH. *ag.* The board of midwifery, created pursuant
17 to chapter 147.

18 Sec. 16. Section 272C.4, subsection 6, Code 2011, is amended
19 to read as follows:

20 6. Define by rule acts or omissions that are grounds for
21 revocation or suspension of a license under section 100D.5,
22 105.22, 147.55, 148.6, 148B.7, 148F.4, 152.10, 153.34, 154A.24,
23 169.13, 455B.219, 542.10, 542B.21, 543B.29, 544A.13, 544B.15,
24 or 602.3203 or chapter 151 or 155, as applicable, and to define
25 by rule acts or omissions that constitute negligence, careless
26 acts, or omissions within the meaning of section 272C.3,
27 subsection 2, paragraph "*b*", which licensees are required to
28 report to the board pursuant to section 272C.9, subsection 2.

29 Sec. 17. **INITIAL APPOINTMENTS.**

30 1. Notwithstanding any provision to the contrary in this
31 Act, initial professional appointees to the board of midwifery
32 shall fulfill the national certification requirements of the
33 North American registry of midwives.

34 2. One of the initial professional appointments to the
35 board shall be appointed for a one-year term, one member shall

1 be appointed for a two-year term, and one member shall be
2 appointed for a three-year term. The members who are licensed
3 under chapter 148 or 152 shall each be appointed for a two-year
4 term, and the members representing the general public shall
5 each be appointed to a three-year term.

6 Sec. 18. EFFECTIVE DATE. The sections of this Act amending
7 section 147.2, subsection 1, and enacting section 148F.8 take
8 effect July 1, 2013.

9 EXPLANATION

10 This bill creates new Code chapter 148F that provides for
11 the licensure of midwives beginning July 1, 2013. A midwife
12 is not an allopathic or osteopathic physician licensed under
13 Code chapter 148 or a nurse licensed under Code chapter
14 152 providing primary maternity care during the antepartum,
15 intrapartum, and postpartum periods.

16 The bill sets out detailed educational and experience
17 requirements, including an individual skills assessment, as
18 part of the licensing process. The applicant must also hold
19 a certified professional midwife credential issued by the
20 North American registry of midwives or any other nationally
21 accredited credential. The applicant for licensure must also
22 pass a 350-item test.

23 The bill empowers the licensing board to require liability
24 insurance when the board determines this insurance is available
25 at an affordable price. Until that time licensed midwives must
26 disclose the lack of insurance.

27 The bill provides limited immunity for a physician, surgeon,
28 physician assistant, nurse, or a hospital providing care for a
29 patient that has been transferred to the provider's care from
30 an out-of-hospital setting when the licensed midwife does not
31 have liability insurance.

32 The bill provides for the establishment of a seven-member
33 board of midwifery consisting of three members who are
34 midwives, one physician, one nurse, and two members who
35 represent the general public. The board is similar in

1 composition and responsibilities to other health-related
2 licensing boards.

3 The bill provides for fees to fund the board and provides
4 penalties for violation of the practice requirement; those
5 penalties are set out for all health-related boards in Code
6 chapters 147 and 272C. Code section 147.86 provides that it is
7 a serious misdemeanor to violate a provision of the licensing
8 laws.

9 The provisions of the bill amending Code section 147.2 and
10 enacting Code section 148F.8, both prohibiting the practice of
11 midwifery without a license, take effect July 1, 2013.